

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6806

BILL NUMBER: HB 1270

NOTE PREPARED: Jan 30, 2004

BILL AMENDED: Jan 29, 2004

SUBJECT: Common Construction Wage and Fringe Benefit Liens.

FIRST AUTHOR: Rep. Liggett

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill establishes requirements for the procedure used to determine the wage scale for the construction of a public work. It requires a contractor or subcontractor constructing a public work to file weekly payroll records and specifies the manner of submission. The bill requires that certain provisions related to the common construction wage be included in public works contracts and subcontracts. It makes the violation of certain requirements relating to payroll records on a public works project a Class A infraction. This bill disqualifies a contractor or subcontractor who has a prior offense under the common wage law and receives judgment of a subsequent, unrelated offense from being awarded a public works contract for three years.

This bill allows an employee in the construction trades to record a mechanic's lien for unpaid or unsatisfied fringe benefits and withholdings due.

The bill also makes conforming changes.

Effective Date: July 1, 2004.

Explanation of State Expenditures: (Revised) *Common Construction Wage Committee:* The bill specifies that the Common Construction Wage Committee is required to consider only the data presented by the Department of Workforce Development, collective bargaining agreements, and other data submitted by interested parties. The information is limited to wages and benefits currently being paid by construction industry employers. Testimony presented to the committee must be under oath or affirmation. The precise impact of the change made by this bill cannot be determined. A contractor or subcontractor of a public works project would be required to file weekly payroll records with the state or municipal corporation that let the contract. Submitting a false or incomplete payroll report on a public works project is a Class A Infraction.

Failure to make payroll available for inspection, copying, or transcription or permitting and interview of an employee is a Class A infraction.

Mechanic's Lien: The portion of the bill that allows an employee in the construction trades to record a mechanic's lien for unpaid or unsatisfied fringe benefits and withholdings due should have no state fiscal impact.

Explanation of State Revenues: (Revised) *Penalty Provision:* The bill changes a Class B misdemeanor provision to a Class A infraction and makes other violations a Class A infraction. Revenue to the Common School Fund may be reduced if an infraction judgment rather than a fine is assessed, but revenue to the state General Fund may increase. (Fines are deposited in the Common School Fund while infraction judgments are deposited in the state General Fund.) However, any changes are likely to be small. Currently, the maximum judgment for a Class B misdemeanor is \$1,000. Under this bill, an offender could pay an infraction judgment of \$10,000. Revenue from court fees may also be reduced. However, the amount is likely to be small.

Explanation of Local Expenditures: (Revised) *Mechanic's Lien:* The portion of the bill that allows an employee in the construction trades to record a mechanic's lien for unpaid or unsatisfied fringe benefits and withholdings due should have no local fiscal impact.

Penalty Provision: Costs to local governments might be reduced since no term of imprisonment is imposed, however, any cost reduction is likely to be small. A Class B misdemeanor is punishable by up to 180 days in jail.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Labor, Department of Workforce Development.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: Chuck Mayfield, 317-232-4825.